

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
WorldCom, Inc.	)	IC Nos. 02-S72019
	)	02-S73555
Complaint Regarding	)	02-S74514
Unauthorized Change of	)	02-S79518
Subscriber's Telecommunications Carrier	)	02-S81696
		02-S81762

**ORDER**

**Adopted: October 8, 2003**

**Released: October 10, 2003**

By the Acting Deputy Chief, Policy Division, Consumer & Governmental Affairs Bureau:

1. In this Order, we consider the complaint filed by Complainants<sup>1</sup> alleging that WorldCom, Inc., (WorldCom) changed Complainants' telecommunications service provider without obtaining authorization and verification from Complainant in violation of the Commission's rules.<sup>2</sup> We conclude that WorldCom's actions did result in an unauthorized change in Complainants' telecommunications service provider and we grant Complainants' complaint.

2. In December 1998, the Commission released the *Section 258 Order* in which it adopted rules to implement Section 258 of the Communications Act of 1934 (Act), as amended by the Telecommunications Act of 1996 (1996 Act).<sup>3</sup> Section 258 prohibits the practice of

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<sup>1</sup> See Appendix A.

<sup>2</sup> See 47 C.F.R. §§ 64.1100 – 64.1190.

<sup>3</sup> 47 U.S.C. § 258(a); Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996); *Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996; Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers*, CC Docket No. 94-129, Second Report and Order and Further Notice of Proposed Rule Making, 14 FCC Rcd 1508 (1998) (*Section 258 Order*), *stayed in part*, *MCI WorldCom v. FCC*, No. 99-1125 (D.C. Cir. May 18, 1999); First Order on Reconsideration, 15 FCC Rcd 8158 (2000); *stay lifted*, *MCI WorldCom v. FCC*, No. 99-1125 (D.C. Cir. June 27, 2000); Third Report and Order and Second Order on Reconsideration, 15 FCC Rcd 15996 (2000), Errata, DA No. 00-2163 (rel. Sept. 25, 2000), Erratum, DA No. 00-2192 (rel. Oct. 4, 2000), Order, FCC 01-67 (rel. Feb. 22, 2001); *reconsideration pending*. Prior to the adoption of Section 258, the Commission had taken various steps to address the slamming problem. See, e.g., *Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers*, CC Docket No. 94-129, Report and Order, 10 FCC Rcd 9560 (1995), *stayed in part*, 11 FCC Rcd 856 (1995); *Policies and Rules Concerning Changing Long Distance Carriers*, CC Docket No. 91-64, 7 FCC Rcd 1038 (1992), *reconsideration denied*, 8 FCC Rcd 3215 (1993); Investigation of Access and Divestiture (continued....)

“slamming,” the submission or execution of an unauthorized change in a subscriber’s selection of a provider of telephone exchange service or telephone toll service.<sup>4</sup> In the *Section 258 Order*, the Commission adopted aggressive new rules designed to take the profit out of slamming, broadened the scope of the slamming rules to encompass all carriers, and modified its existing requirements for the authorization and verification of preferred carrier changes. The rules require, among other things, that a carrier receive individual subscriber consent before a carrier change may occur.<sup>5</sup> Pursuant to Section 258, carriers are absolutely barred from changing a customer's preferred local or long distance carrier without first complying with one of the Commission's verification procedures.<sup>6</sup> Specifically, a carrier must: (1) obtain the subscriber's written or electronically signed authorization in a format that meets the requirements of Section 64.1130 authorization; (2) obtain confirmation from the subscriber via a toll-free number provided exclusively for the purpose of confirming orders electronically; or (3) utilize an independent third party to verify the subscriber's order.<sup>7</sup>

3. The Commission also has adopted liability rules. These rules require the carrier to absolve the subscriber where the subscriber has not paid his or her bill. In that context, if the subscriber has not already paid charges to the unauthorized carrier, the subscriber is absolved of liability for charges imposed by the unauthorized carrier for service provided during the first 30 days after the unauthorized change.<sup>8</sup> Where the subscriber has paid charges to the unauthorized carrier, the Commission’s rules require that the unauthorized carrier pay 150% of those charges to the authorized carrier, and the authorized carrier shall refund or credit to the subscriber 50% of all charges paid by the subscriber to the unauthorized carrier.<sup>9</sup> Carriers should note that our actions in this order do not preclude the Commission from taking additional action, if warranted, pursuant to Section 503 of the Act.<sup>10</sup>

4. We received Complainants’ complaints, alleging that Complainants’ telecommunications service providers were changed to WorldCom without Complainants’

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Related Tariffs, CC Docket No. 83-1145, Phase I, 101 F.C.C.2d 911, 101 F.C.C.2d 935, *reconsideration denied*, 102 F.C.C.2d 503 (1985).

<sup>4</sup> 47 U.S.C. § 258(a).

<sup>5</sup> See 47 C.F.R. § 64.1120.

<sup>6</sup> 47 U.S.C. § 258(a).

<sup>7</sup> See 47 C.F.R. § 64.1120(c). Section 64.1130 details the requirements for letter of agency form and content for written or electronically signed authorizations. 47 C.F.R. § 64.1130.

<sup>8</sup> See 47 C.F.R. §§ 64.1140, 64.1160. Any charges imposed by the unauthorized carrier on the subscriber for service provided after this 30-day period shall be paid by the subscriber to the authorized carrier at the rates the subscriber was paying to the authorized carrier at the time of the unauthorized change. *Id.*

<sup>9</sup> See 47 C.F.R. §§ 64.1140, 64.1170.

<sup>10</sup> See 47 U.S.C. § 503.

authorizations. Pursuant to Sections 1.719 and 64.1150 of our rules,<sup>11</sup> we notified WorldCom of the complaints and WorldCom.<sup>12</sup> WorldCom states that Complainants authorized the changes in their services. WorldCom's third party verifier, however, failed to obtain separate authorizations for each service sold to the Complainants as required by our rules.<sup>13</sup> We find that WorldCom has failed to produce clear and convincing evidence that Complainant authorized a carrier change.<sup>14</sup> Therefore, we find that WorldCom's actions resulted in an unauthorized change in Complainants' telecommunications service providers and we discuss WorldCom's liability below.<sup>15</sup>

5. WorldCom must remove all charges incurred for service provided to Complainants for the first thirty days after the alleged unauthorized changes in accordance with the Commission's liability rules.<sup>16</sup> We have determined that Complainants are entitled to absolution for the charges incurred during the first thirty days after the unauthorized changes occurred and that neither Complainants' authorized carriers nor WorldCom may pursue any collection against Complainants for those charges.<sup>17</sup> Any charges imposed by WorldCom on the subscribers for services provided after this 30-day period shall be paid by the subscribers to Complainants' authorized carriers at the rates the subscribers were paying to Complainants' authorized carriers at the time of the change in services.<sup>18</sup>

6. Accordingly, IT IS ORDERED that, pursuant to Section 258 of the Communications Act of 1934, as amended, 47 U.S.C. § 258, and Sections 0.141, 0.361 and 1.719 of the Commission's rules, 47 C.F.R. §§ 0.141, 0.361, 1.719, the complaints filed by Complainants against WorldCom ARE GRANTED.

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<sup>11</sup> 47 C.F.R. § 1.719 (Commission procedure for informal complaints filed pursuant to Section 258 of the Act); 47 C.F.R. § 64.1150 (procedures for resolution of unauthorized changes in preferred carrier).

<sup>12</sup> See Appendix A.

<sup>13</sup> See 47 C.F.R. § 6.1120(b).

<sup>14</sup> See 47 C.F.R. § 64.1150(d).

<sup>15</sup> If Complainant is unsatisfied with the resolution of this complaint, Complainant may file a formal complaint with the Commission pursuant to Section 1.721 of the Commission's rules, 47 C.F.R. § 1.721. Such filing will be deemed to relate back to the filing date of Complainants' informal complaint so long as the formal complaint is filed within 45 days from the date this order is mailed or delivered electronically to Complainant. See 47 C.F.R. § 1.719.

<sup>16</sup> See 47 C.F.R. § 64.1160(b).

<sup>17</sup> See 47 C.F.R. § 64.1160(d).

<sup>18</sup> See 47 C.F.R. §§ 64.1140, 64.1160.

7. IT IS FURTHER ORDERED that, pursuant to Section 64.1170(d) of the Commission's rules, 47 C.F.R. § 64.1170(d), Complainants are entitled to absolution for the charges incurred during the first thirty days after the unauthorized changes occurred and neither Complainants' authorized carriers nor WorldCom may pursue any collection against Complainants for those charges.

8. IT IS FURTHER ORDERED that this Order is effective upon release.

FEDERAL COMMUNICATIONS COMMISSION

Nancy A. Stevenson, Acting Deputy Chief  
Policy Division  
Consumer & Governmental Affairs Bureau

## APPENDIX A

INFORMAL COMPLAINT NUMBER	COMPLAINANT(S)	DATE OF COMPLAINT	DATE OF CARRIER RESPONSE
02-S72019	Sophie White	April 4, 2002	June 2, 2003
02-S73555	Linda Morin o/b/o Ozell Oliver	April 14, 2002	June 26, 2002
02-S74514	Hilda Fiorio	March 14, 2002	December 13, 2002
02-S79518	Hattie Myers o/b/o Clyde Woodward	July 22, 2002	December 13, 2002
02-S81696	Ruth Barnes	November 18, 2002	January 22, 2003
02-S81762	Ricki Leigh o/b/o Fit For Life Personal Training	December 19, 2002	February 4, 2003